

## EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-1911-PWS-E TCEQ ID: RN101438380 CASE NO.: 35003  
RESPONDENT NAME: TONY HUTCHESON DBA ELM GROVE MOBILE HOME PARK

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 2201 Research Boulevard, Lubbock, Lubbock, County</p> <p><b>TYPE OF OPERATION:</b> Public Water Supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired June 1, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b> <b>TCEQ Attorney:</b> Mr. Tommy Tucker Henson, Litigation Division, MC 175, (512) 239-0946 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 <b>TCEQ Enforcement Coordinator:</b> Mr. Stephen Thompson, Water Enforcement Section, MC 169, (512) 239-2558 <b>TCEQ Regional Contact:</b> Mr. Pat Cooke, Lubbock Regional Office, MC R-2, (806) 796-7092 <b>Respondent:</b> Mr. Tony Hutcheson, Owner, Elm Grove Mobile Park, 2201 Research Boulevard, Lubbock, Texas 79407 <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> June 1, 2007 (record review) November 26, 2007</p> <p><b>Date of NOE Relating to this Case:</b> September 27, 2007</p> <p><b>Background Facts:</b> The EDP RP was filed December 2, 2008. The Agreed Order was signed February 7, 2009.</p> <p><b>Current Compliance Status:</b> The Respondent owes \$659.35 in past-due fees. The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p><b>PWS:</b></p> <ol style="list-style-type: none"> <li>1. Failed to collect water samples for bacteriological analysis during the months of September 2006 and February 2007 through May 2007, and failed to provide public notice of the failure to sample during the months of September 2006, February 2007 and March 2007 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.121(c)(2)(A) and TEX. HEALTH &amp; SAFETY CODE §341.033(d)].</li> <li>2. Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 91520156 for Fiscal Years 2001 through 2007 [30 TEX. ADMIN. CODE § 290.51(a)(3)].</li> </ol>	<p><b>Total Assessed:</b> \$2,062</p> <p><b>Total Deferred:</b> \$  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$105/\$1,957</p> <p>The Respondent paid \$105 of the administrative penalty. The remaining amount of \$1,957 shall be payable in 19 monthly payments of \$103.00 each.</p> <p><b>Site Compliance History Classification:</b> N/A</p> <p><b>Person Compliance History Classification:</b> N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b> Five repeated enforcement actions (NOVs) over the prior five-year period for the same violation.</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 10 days: <ol style="list-style-type: none"> <li>a. Implement procedures to ensure that all notifications are provided in a timely manner to customers of the water supply; and</li> <li>b. Begin performing monthly bacteriological sampling utilizing samples which are representative of the Facility's water system, according to the Facility's written Sampling Monitoring Plan.</li> </ol> </li> <li>2. Within 30 days, pay all outstanding fees, including any associated penalties and interest, for Financial Administration Account No. 91520156.</li> <li>3. Within 45 days, submit written certification to demonstrate compliance with these Ordering Provisions.</li> </ol>



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision September 19, 2007

TCEQ

DATES	Assigned	29-Oct-2007	Screening	27-Nov-2007	EPA Due	1-Mar-2008
	PCW	3-Mar-2008				

## RESPONDENT/FACILITY INFORMATION

Respondent	Tony Hutcheson dba Elm Grove Mobile Home Park		
Reg. Ent. Ref. No.	RN101438380		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

## CASE INFORMATION

Enf./Case ID No.	35003	No. of Violations	2
Docket No.	2007-1911-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Stephen Thompson
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$	Limit Minimum	\$50	Maximum
			\$1,000

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$1,250

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 45% Enhancement **Subtotals 2, 3, & 7** \$562

Notes

The penalty enhancement is due to five prior Notices of Violation ("NOVs") that contain violations that are the same or similar to the violations in the current enforcement action and ten prior dissimilar NOVs.

Culpability

No

0% Enhancement

**Subtotal 4** \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

**Subtotal 5** \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement\*

**Subtotal 6** \$0

Total EB Amounts \$271

Approx. Cost of Compliance \$250

\*Capped at the Total EB \$ Amount

## SUM OF SUBTOTALS 1-7

**Final Subtotal** \$1,812

## OTHER FACTORS AS JUSTICE MAY REQUIRE

14%

**Adjustment** \$250

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Enhancement recommended for recovery of avoided costs of compliance.

**Final Penalty Amount** \$2,062

## STATUTORY LIMIT ADJUSTMENT

**Final Assessed Penalty** \$2,062

## DEFERRAL

0%

Reduction

**Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

## PAYABLE PENALTY

\$2,062

Screening Date 27-Nov-2007

Docket No. 2007-1911-PWS-E

PCW

Respondent Tony Hutcheson dba Elm Grove Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 35003

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101438380

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	5	25%
	Other written NOVs	10	20%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 45%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The penalty enhancement is due to five prior Notices of Violation ("NOVs") that contain violations that are the same or similar to the violations in the current enforcement action and ten prior dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 45%

<b>Screening Date</b> 27-Nov-2007		<b>Docket No.</b> 2007-1911-PWS-E		<b>PCW</b>	
<b>Respondent</b> Tony Hutcheson dba Elm Grove Mobile Home Park					
<b>Case ID No.</b> 35003					
<b>Reg. Ent. Reference No.</b> RN101438380					
<b>Media [Statute]</b> Public Water Supply					
<b>Enf. Coordinator</b> Stephen Thompson					
<b>Violation Number</b>		<input type="text" value="1"/>			
<b>Rule Cite(s)</b>		30 Tex. Admin. Code §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and Tex. Health & Safety Code § 341.033(d)			
<b>Violation Description</b>		Failed to collect water samples for bacteriological analysis during the months of September 2006 and February 2007 through May 2007 and failed to provide public notification of the failure to sample during the months of September 2006, February 2007 and March 2007.			
<b>Base Penalty</b>					<input type="text" value="\$1,000"/>

  

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>		

  

**>> Programmatic Matrix**

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>

**Matrix Notes**

Failure to perform routine bacteriological sampling of the public water supply could result in customers of the water supply being exposed to undetected contaminants which would exceed levels that are protective of human health.

  

**Adjustment**

  

**Violation Events**

Number of Violation Events <input type="text" value="5"/>	<input type="text" value="150"/>	Number of violation days
---	----------------------------------	--------------------------

<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$1,250"/>
	monthly	<input type="text" value="x"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	

Five monthly events are recommended.

  

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$271"/>	Violation Final Penalty Total <input type="text" value="\$2,062"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,062"/>	

## Economic Benefit Worksheet

Respondent Tony Hutcheson dba Elm Grove Mobile Home Park

Case ID No. 35003

Reg. Ent. Reference No. RN101438380

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$250	1-Sep-2006	31-May-2007	1.7	\$21	\$250	\$271
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs included the amount to conduct monthly bacteriological sampling and provide public notification, calculated for the months in which the violations occurred.

Approx. Cost of Compliance

\$250

TOTAL

\$271

<b>Screening Date</b> 27-Nov-2007		<b>Docket No.</b> 2007-1911-PWS-E		<b>PCW</b>	
<b>Respondent</b> Tony Hutcheson dba Elm Grove Mobile Home Park					
<b>Case ID No.</b> 35003					
<b>Reg. Ent. Reference No.</b> RN101438380					
<b>Media [Statute]</b> Public Water Supply					
<b>Enf. Coordinator</b> Stephen Thompson					
<b>Violation Number</b>		<input type="text" value="2"/>			
<b>Rule Cite(s)</b>		<input type="text" value="30 Tex. Admin. Code § 290.51(a)(3)"/>			
<b>Violation Description</b>		<input type="text" value="Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 91520156 for Fiscal Years 2001 through 2007."/>			
<b>Base Penalty</b>					<input type="text" value="\$1,000"/>

  

>> Environmental, Property and Human Health Matrix

OR

	Harm		
	Major	Moderate	Minor
Release Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**Matrix Notes**

**Adjustment**

**Violation Events**

**Number of Violation Events**

**Number of violation days**

<small>mark only one with an x</small>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event		<input type="text"/>

**Violation Base Penalty**

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

**Economic Benefit Worksheet****Respondent** Tony Hutcheson dba Elm Grove Mobile Home Park**Case ID No.** 35003**Reg. Ent. Reference No.** RN101438380**Media** Public Water Supply**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

There is no economic benefit associated to this violation.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



# Compliance History

Customer/Respondent/Owner-Operator:	CN600747547 HUTCHESON, TONY	Classification:	Rating:
Regulated Entity:	RN101438380 ELM GROVE MOBILE HOME PARK	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1520156
	WATER LICENSING	LICENSE	1520156
Location:	2201 RESEARCH BLVD, LUBBOCK COUNTY, TX		
TCEQ Region:	REGION 02 - LUBBOCK		
Date Compliance History Prepared:	November 01, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 01, 2002 to November 01, 2007		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Stephen Thompson	Phone:	512-239-2558

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- N/A

- B. Any criminal convictions of the state of Texas and the federal government.
- N/A

- C. Chronic excessive emissions events.
- N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- |    |            |          |
|----|------------|----------|
| 1  | 04/24/2003 | (34651)  |
| 2  | 03/09/2005 | (373590) |
| 3  | 08/11/2005 | (533890) |
| 4  | 08/11/2005 | (534008) |
| 5  | 08/11/2005 | (399990) |
| 6  | 03/21/2007 | (554176) |
| 7  | 03/21/2007 | (554177) |
| 8  | 03/21/2007 | (554178) |
| 9  | 03/21/2007 | (554175) |
| 10 | 03/21/2007 | (554180) |
| 11 | 03/21/2007 | (554181) |
| 12 | 04/05/2007 | (534408) |
| 13 | 05/08/2007 | (557901) |
| 14 | 10/12/2007 | (597181) |
| 15 | 10/17/2007 | (597885) |
| 16 | 10/17/2007 | (597894) |
| 17 | 10/17/2007 | (597902) |
| 18 | 10/17/2007 | (597872) |
| 19 | 10/26/2007 | (598942) |

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/11/2005 (534008)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)

Description: System violated the maximum contaminant level for the running annual average for fluoride in the first quarter of 2004.

Date: 08/11/2005 (399990)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
Description: System violated the maximum contaminant level for fluoride in 2002.  
Date: 08/11/2005 (533890)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
Description: System violated the maximum contaminant level for the running annual average for fluoride in the fourth quarter of 2003.  
Date: 10/25/2006 (597181)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
Description: 09/2006 - Failure to collect any routine monitoring sample(s) in 09/2006.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: 09/2006 - Failure to post a pn for not collecting any routine monitoring sample(s) in 09/2006.  
Date: 03/21/2007 (554180)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
Description: System violated the maximum contaminant level for the running annual average for fluoride for the third quarter of 2006.  
Date: 03/21/2007 (554175)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
Description: System violated the maximum contaminant level for the running annual average for fluoride in the third quarter of 2005.  
Date: 03/21/2007 (554178)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
Description: System violated the maximum contaminant level for the running annual average for fluoride for the second quarter of 2006.  
Date: 03/21/2007 (554176)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
Description: System violated the maximum contaminant level for the running annual average for fluoride in the fourth quarter of 2005.  
Date: 03/21/2007 (554177)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
Description: System violated the maximum contaminant level for the running annual average for fluoride in the first quarter of 2006.  
Date: 03/21/2007 (554181)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
Description: System violated the maximum contaminant level for the running annual average for fluoride for the fourth quarter of 2006.  
Date: 03/29/2007 (597872)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
Description: 02/2007 - Failure to collect any routine monitoring sample(s) for 02/2007.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: 02/2007 - Failure to post pn for not collecting any routine monitoring sample(s) for 02/2007.  
Date: 04/25/2007 (597885)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: 03/2007 - Failure to post pn for not collecting any routine monitoring sample(s) for 03/2007.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
Description: 03/2007 - Failure to collect any routine monitoring sample(s) for 03/2007.  
Date: 05/09/2007 (557901)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(a)  
Description: Failure to submit Disinfectant Level Quarterly Operating Report as required.  
Date: 05/25/2007 (597894)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: 04/2007 - Failure to collect any routine monitoring sample(s) for 04/2007.

Date: 06/25/2007 (597902)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: 05/2007 - Failure to collect any routine monitoring sample(s) for 05/2007.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TONY HUTCHESON DBA ELM  
GROVE MOBILE HOME PARK;  
RN101438380**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-1911-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Tony Hutcheson dba Elm Grove Mobile Home Park ("Mr. Hutcheson") under the authority of TEX. WATER CODE chs. 5 and 7 and TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Hutcheson presented this agreement to the Commission.

Mr. Hutcheson understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Mr. Hutcheson agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Mr. Hutcheson.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Mr. Hutcheson owns and operates a public water supply located at 2201 Research Boulevard, Lubbock, Lubbock County, Texas (the "Facility").
2. The Facility provides water for human consumption, has approximately seventeen service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63).

3. During a record review conducted on June 1, 2007 and an investigation conducted on November 26, 2007, TCEQ Staff documented that Mr. Hutcheson:
  - a. Failed to collect water samples for bacteriological analysis during the months of September 2006 and February 2007 through May 2007 and failed to provide public notification of the failure to sample during the months of September 2006, February 2007 and March 2007; and
  - b. Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 91520156 for Fiscal Years 2001 through 2007.
4. Mr. Hutcheson received notice of the violations on or about October 2, 2007.

#### CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, Mr. Hutcheson is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 5.013, TEX. HEALTH & SAFETY CODE § 341.049, and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3.a., Mr. Hutcheson failed to collect water samples for bacteriological analysis during the months of September 2006 and February 2007 through May 2007 and failed to provide public notification of the failure to sample during the months of September 2006, February 2007 and March 2007, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Findings of Fact No. 3.b., Mr. Hutcheson failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 91520156 for Fiscal Years 2001 through 2007, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3).
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Hutcheson for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of two thousand sixty-two dollars (\$2,062.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Mr. Hutcheson has paid one hundred five dollars (\$105.00) of the administrative penalty. The remaining amount of one thousand nine hundred fifty-seven dollars (\$1,957.00) of the administrative penalty shall be payable in nineteen monthly payments of one hundred three dollars (\$103.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the

effective date of this Agreed Order. The subsequent payments shall be remitted not later than 30 days following the due date of the previous payment. If Mr. Hutcheson fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Hutcheson to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Hutcheson to timely and satisfactorily comply with all of the terms of this Agreed Order.

### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. It is, therefore, ordered by the TCEQ that Mr. Hutcheson pay an administrative penalty as set forth in Conclusion of Law No. 5, above. The payment of this administrative penalty and Mr. Hutcheson's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Tony Hutcheson dba Elm Grove Mobile Home Park; Docket No. 2007-1911-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Mr. Hutcheson shall undertake the following technical requirements:
  - a. Within 10 days after the effective date of this Commission order, Mr. Hutcheson shall:
    - i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the water supply, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
    - ii. Begin performing monthly bacteriological sampling utilizing samples which are representative of the Facility's water system, according to the Facility's

written Sampling Monitoring Plan, as required by 30 TEX. ADMIN. CODE § 290.109.

- b. Within 30 days after the effective date of the Commission Order, Mr. Hutcheson shall pay all outstanding fees, including any associated penalties and interest, for Financial Administration Account No. 91520156 with the notation "Tony Hutcheson dba Elm Grove Mobile Home Park Account No. 91520156" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, TX 78711-3088

- c. Within 45 days after the effective date of the Commission Order, Mr. Hutcheson shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No(s). 2.a.i, 2.a.ii. and 2.b., above.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Mr. Hutcheson shall submit copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Pat Cooke, Water Section Manager  
Texas Commission on Environmental Quality  
Lubbock Regional Office  
5012 50th Street, Suite 100  
Lubbock, Texas 79414-3421

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Hutcheson. Mr. Hutcheson is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Hutcheson shall be made in writing to the Executive Director. Extensions are not effective until Mr. Hutcheson receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Hutcheson if the Executive Director determines that Mr. Hutcheson has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Hutcheson in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Hutcheson, or three days after the date on which the Commission mails notice of the Order to Mr. Hutcheson, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

5/3/2009  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Tony Hutcheson dba Elm Grove Mobile Home Park, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution

  
Signature

2-7-09  
Date

Tony Hutcheson  
Name (Printed or typed)

owner  
Title

Tony Hutcheson dba Elm Grove Mobile Home Park